

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

WALTER SCHRAMM; CHRISTINE  
KYDD; MARK HILFERTY; LUDOVIC  
BONNIN, on behalf of themselves and other  
persons similarly situated,

C.A. No.: 22-1443-MN

Plaintiffs,

v.

BRENDA MAYRACK, in her capacity as the  
Delaware State Escheator, BRIAN  
WISHNOW, in his capacity as the Assistant  
Director Enforcement of the Office of  
Unclaimed Property, and RICHARD J.  
GEISENBERGER, in his official capacity as  
the Secretary of Finance for the State of  
Delaware,

Defendants.

**MOTION TO AMEND PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION FOR SANCTIONS**

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Hilferty; Ludovic Bonnin and Members of the Proposed Class*

Dated: April 16, 2025

**TO THE HONORABLE COURT, THE CLERK OF THE COURT, AND TO  
DEFENDANTS AND THEIR ATTORNEYS:**

Plaintiffs Walter Schramm, Christine Kydd, Mark Hilferty, Ludovic Bonnin (collectively, “Plaintiffs”), through their counsel, pursuant to Del. L.R. 15.1, respectfully move to amend Plaintiffs’ Opposition to Defendants’ Motion for Sanctions (the “Opposition”) to correct the errors in cited authority identified by counsel to defendants Brenda Mayrack, as the Delaware State Escheator; Brian Wishnow; and Michael R. Smith (collectively, the “Defendants”) in their Reply to Plaintiffs’ Opposition to Defendants’ Motion For Sanctions (the “Reply”). Prior to filing this motion, Plaintiffs’ counsel met and conferred regarding Defendants’ position on this motion who noted that they oppose the relief being granted.

On April 3, 2025, Plaintiffs filed their Opposition [Dkt. No. 122]. After reviewing the Reply and upon further review of the Opposition, Plaintiffs seek to amend the Opposition to correct and update only the legal citations and authorities to aid the Court in its analysis. Plaintiffs’ counsel do not seek to rewrite their Opposition but to correct citation format and to correct citations where the incorrect citation appears.

Rule 15(a)(2) of the Federal Rules of Civil Procedure provides that “[t]he court should freely give leave when justice so requires.” Although Rule 15 governs the amendment of pleadings, courts have applied this standard to motions for leave to amend briefing, especially where no undue delay, bad faith, or prejudice would result. *See Long v. Wilson*, 393 F.3d 390, 400 (3d Cir. 2004).

Counsel for Plaintiffs reviewed the miscites and in the attached amended pleading the correction of the cites or miscites, without materially changing the language or the propositions of law for each citation. Attached as Exhibit A is a clean copy of the corrected Opposition with the

redlined Opposition attached as Exhibit B. As shown in Exhibit B, the following changes have been made:

At page 8, counsel removed the miscite and provided corrected authority.

Page 9, counsel removed the miscite and provided correct authority.

Page 10, counsel removed the quotes from within the sentence and updated the cite with correct authority.

Page 11, counsel removed case citation and replaced it with the corrected cite.

Page 12, the cite was updated to the correct format.

Page 14, the case cite was updated with the full cite and added authority.

Page 15, the proper cite was update.

Page 16, counsel reworded a sentence and removed a cite.

At pages 17 through 19, replaced cite with the correct authority.

Defendants will not be prejudiced by the filing of an amended (or corrected) Opposition, and any inconvenience would be minimal compared to the interest of resolving the issues on the merits based on accurate legal citations. The mistakes were inadvertent, and granting leave to amend in this instance would serve the interests of justice by ensuring that the Court has the benefit of the corrected legal authority when considering the matters at issue in this case. Plaintiffs respectfully request that the Court grant leave to file the attached [Proposed] Amended Opposition to Defendants' Motion for Sanctions, which is submitted herewith as Exhibit A.

Dated: April 16, 2025

MCELROY, DEUTSCH, MULVANEY  
& CARPENTER, LLP

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and copy of **MOTION TO AMEND PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR SANCTIONS** was made on the below counsel of record via electronic mail by ECF service:

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